

First Regular Session of the 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

HOUSE ENROLLED ACT No. 1001

AN ACT to amend the Indiana Code concerning state offices and administration.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. [EFFECTIVE JULY 1, 2015]

(a) The following definitions apply throughout this act:

- (1) "Augmentation allowed" means the governor and the budget agency are authorized to add to an appropriation in this act from revenues accruing to the fund from which the appropriation was made.
- (2) "Biennium" means the period beginning July 1, 2015, and ending June 30, 2017. Appropriations appearing in the biennial column for construction or other permanent improvements do not revert under IC 4-13-2-19 and may be allotted.
- (3) "Deficiency appropriation" or "special claim" means an appropriation available during the 2014-2015 fiscal year.
- (4) "Equipment" includes machinery, implements, tools, furniture, furnishings, vehicles, and other articles that have a calculable period of service that exceeds twelve (12) calendar months.
- (5) "Fee replacement" includes payments to universities to be used to pay indebtedness resulting from financing the cost of planning, purchasing, rehabilitation, construction, repair, leasing, lease-purchasing, or otherwise acquiring land, buildings, facilities, and equipment to be used for academic and instructional purposes.
- (6) "Federally qualified health center" means a community health center that is designated by the Health Resources Services Administration, Bureau of Primary Health Care, as a Federally Qualified Health Center Look Alike under the FED 330 Consolidated

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healthy Indiana ~~check-up~~ plan trust fund established by IC 12-15-44.2-17.

(6) Two and forty-six hundredths percent (2.46%) of the money shall be deposited in the state general fund for the purpose of paying appropriations for Medicaid—Current Obligations, for provider reimbursements.

(7) The following amount of the money shall be deposited in the state retiree health benefit trust fund established by IC 5-10-8-8.5 as follows:

- (A) Before July 1, 2011, five and seventy-four hundredths percent (5.74%).
- (B) After June 30, 2011, and before July 1, 2013, zero percent (0%).
- (C) After June 30, 2013, four percent (4%).

The money in the cigarette tax fund, the mental health centers fund, the **healthy** Indiana ~~check-up~~ plan trust fund, or the pension relief fund at the end of a fiscal year does not revert to the state general fund. However, if in any fiscal year, the amount allocated to a fund under subdivision (1) or (2) is less than the amount received in fiscal year 1977, then that fund shall be credited with the difference between the amount allocated and the amount received in fiscal year 1977, and the allocation for the fiscal year to the fund under subdivision (3) shall be reduced by the amount of that difference. Money deposited under subdivisions (6) through (7) may not be used for any purpose other than the purpose stated in the subdivision.

SECTION 91. IC 6-8.1-3-17, AS AMENDED BY P.L.236-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 17. (a) Before an original tax appeal is filed with the tax court under IC 33-26, the commissioner may settle any tax liability dispute if a substantial doubt exists as to:

- (1) the constitutionality of the tax under the Constitution of the State of Indiana;
- (2) the right to impose the tax;
- (3) the correct amount of tax due;
- (4) the ~~collectibility~~ **collectability** of the tax; or
- (5) whether the taxpayer is a resident or nonresident of Indiana.

(b) After an original tax appeal is filed with the tax court under IC 33-26, and notwithstanding IC 4-6-2-11, the commissioner may settle a tax liability dispute with an amount in contention of twenty-five thousand dollars (\$25,000) or less. Notwithstanding IC 6-8.1-7-1(a), the terms of a settlement under this subsection are available for public inspection.

(c) The department shall establish an amnesty program for taxpayers having an unpaid tax liability for a listed tax that was due and payable for a tax period ending before ~~July 1, 2004~~. **January 1, 2013**. A taxpayer is not eligible for the amnesty program:

- (1) for any tax liability resulting from the taxpayer's failure to comply with IC 6-3-1-3.5(b)(3) with regard to the tax imposed by IC 4-33-13 **or IC 4-35-8; or**
- (2) **if the taxpayer participated in any previous amnesty program under:**
 - (A) **this section (as in effect on December 31, 2014); or**
 - (B) **IC 6-2.5-14.**

The time in which a voluntary payment of tax liability may be made (or the taxpayer may enter into a payment program acceptable to the department for the payment of the unpaid listed taxes in full in the manner and time established in a written payment program agreement between the department and the taxpayer) under the amnesty program is limited to the period determined by the department, not to exceed eight (8) regular business weeks ending before the earlier of the date set by the department or ~~July 1~~;



~~2006.~~ **January 1, 2017.** The amnesty program must provide that, upon payment by a taxpayer to the department of all listed taxes due from the taxpayer for a tax period (or payment of the unpaid listed taxes in full in the manner and time established in a written payment program agreement between the department and the taxpayer), entry into an agreement that the taxpayer is not eligible for any other amnesty program that may be established and waives any part of interest and penalties on the same type of listed tax that is being granted amnesty in the current amnesty program, and compliance with all other amnesty conditions adopted under a rule of the department in effect on the date the voluntary payment is made, the department:

- (1) shall abate and not seek to collect any interest, penalties, collection fees, or costs that would otherwise be applicable;
- (2) shall release any liens imposed;
- (3) shall not seek civil or criminal prosecution against any individual or entity; and
- (4) shall not issue, or, if issued, shall withdraw, an assessment, a demand notice, or a warrant for payment under **IC 6-8.1-5-1**, IC 6-8.1-5-3, IC 6-8.1-8-2, or another law against any individual or entity;

for listed taxes due from the taxpayer for the tax period for which amnesty has been granted to the taxpayer. Amnesty granted under this subsection is binding on the state and its agents. However, failure to pay to the department all listed taxes due for a tax period invalidates any amnesty granted under this subsection for that tax period. The department shall conduct an assessment of the impact of the tax amnesty program on tax collections and an analysis of the costs of administering the tax amnesty program. As soon as practicable after the end of the tax amnesty period, the department shall submit a copy of the assessment and analysis to the legislative council in an electronic format under IC 5-14-6. The department shall enforce an agreement with a taxpayer that prohibits the taxpayer from receiving amnesty in another amnesty program.

(d) For purposes of subsection (c), a liability for a listed tax is due and payable if:

- (1) the department has issued:
 - (A) an assessment of the listed tax ~~and under IC 6-8.1-5-1;~~
 - (B) a demand for payment under IC 6-8.1-5-3; or**
 - ~~(B)~~ **(C) a demand notice for payment of the listed tax under IC 6-8.1-8-2;**
- (2) the taxpayer has filed a return or an amended return in which the taxpayer has reported a liability for the listed tax; or
- (3) the taxpayer has filed a written statement of liability for the listed tax in a form that is satisfactory to the department.

SECTION 92. IC 6-8.1-3-24 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 24. (a) The department of state revenue may adopt emergency rules under IC 4-22-2-37.1 to carry out a tax amnesty program under section 17 of this chapter.**

(b) Notwithstanding IC 4-22-2-37.1(g), an emergency rule adopted by the department under IC 4-22-2-37.1 expires on the date specified in the emergency rule.

(c) This section expires July 1, 2017.

SECTION 93. IC 6-8.1-3-25 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 25. Notwithstanding any other law, the department shall deposit the amounts collected under a tax amnesty program carried out under section 17 of**



this chapter after June 30, 2015, as follows:

(1) The first eighty-four million dollars (\$84,000,000) collected must be deposited into the Indiana regional cities development fund established by IC 5-28-38-2.

(2) After making the deposits required under subdivision (1), the next six million dollars (\$6,000,000) collected shall be transferred to the Indiana department of transportation to reimburse the Indiana department of transportation for money expended by the Indiana department of transportation under IC 8-23-2-18.5 for the operation of the Hoosier State Rail Line. However, the total amount transferred under this subdivision to the Indiana department of transportation may not exceed the lesser of:

(A) six million dollars (\$6,000,000); or

(B) the total amount expended by the Indiana department of transportation under IC 8-23-2-18.5 for the operation of the Hoosier State Rail Line after June 30, 2015, and before July 1, 2017.

(3) Any remaining amounts collected must be deposited into the state general fund.

SECTION 94. IC 6-8.1-10-12, AS AMENDED BY P.L.1-2009, SECTION 59, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 12. (a) This section applies to a penalty related to a tax liability to the extent that the:

(1) tax liability is for a listed tax;

(2) tax liability was due and payable, as determined under IC 6-8.1-3-17(d), for a tax period ending before ~~July 1, 2004~~; **January 1, 2013**;

(3) department establishes an amnesty program for the tax liability under IC 6-8.1-3-17(c);

(4) individual or entity from which the tax liability is due was eligible to participate in the amnesty program described in subdivision (3); and

(5) tax liability is not paid:

(A) in conformity with a payment program acceptable to the department that provides for payment of the unpaid listed taxes in full in the manner and time established in a written payment program agreement entered into between the department and the taxpayer under IC 6-8.1-3-17(c); or

(B) if clause (A) does not apply, before the end of the amnesty period established by the department.

(b) Subject to subsection (c), if a penalty is imposed or otherwise calculated under any combination of:

(1) IC 6-8.1-1-8;

(2) section 2.1 of this chapter;

(3) section 3 of this chapter;

(4) section 3.5 of this chapter;

~~(4) (5) section 4 of this chapter;~~

~~(5) (6) section 5 of this chapter;~~

~~(6) (7) section 6 of this chapter;~~

~~(7) (8) section 7 of this chapter;~~

~~(8) (9) section 9 of this chapter; or~~

~~(9) (10) IC 6-6;~~

an additional penalty is imposed under this section. The amount of the additional penalty imposed under this section is equal to the sum of the penalties imposed or otherwise calculated under the provisions listed in subdivisions (1) through ~~(9)~~ **(10)**.



- (c) The additional penalty provided by subsection (b) does not apply if all of the following apply:
- (1) The department imposes a penalty on a taxpayer or otherwise calculates the penalty under the provisions described in subsection (b)(1) through ~~(b)(9)~~: **(b)(10)**.
 - (2) The taxpayer against whom the penalty is imposed:
 - (A) timely files an original tax appeal in the tax court under IC 6-8.1-5-1; and
 - (B) contests the department's imposition of the penalty or the tax on which the penalty is based.
 - (3) The taxpayer meets all other jurisdictional requirements to initiate the original tax appeal.
 - (4) Either the:
 - (A) tax court enjoins collection of the penalty or the tax on which the penalty is based under IC 33-26-6-2; or
 - (B) department consents to an injunction against collection of the penalty or tax without entry of an order by the tax court.
- (d) The additional penalty provided by subsection (b) does not apply if the taxpayer:
- (1) has a legitimate hold on making the payment as a result of an audit, bankruptcy, protest, taxpayer advocate action, or another reason permitted by the department;
 - (2) had established a payment plan with the department before May 12, ~~2005~~; **2015**; or
 - (3) verifies with reasonable particularity that is satisfactory to the commissioner that the taxpayer did not ever receive notice of the outstanding tax liability.

SECTION 95. IC 7.1-4-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]:

Sec. 1. The department shall:

- (1) deposit daily with the treasurer of state:
 - (A) ~~four three~~ and three-fourths cents (~~4 3/4¢~~) (**3 3/4¢**) of the beer excise tax rate collected on each gallon of beer or flavored malt beverage;
 - (B) one dollar and seventeen cents (\$1.17) of the liquor excise tax rate collected on each gallon of liquor; and
 - (C) sixteen cents (16¢) of the wine excise tax rate collected on each gallon of wine; and
- (2) not later than the fifth day of the following month, transfer the deposits under subdivision (1) into the postwar construction fund.

SECTION 96. IC 7.1-4-10-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]:

Sec. 1. The department shall deposit ~~one and~~ three-fourths cents (~~3/4¢~~) (**1 3/4¢**) of the beer excise tax rate collected on each gallon of beer or flavored malt beverage, eleven cents (11¢) of the liquor excise tax rate collected on each gallon of liquor, and four cents (4¢) of the wine excise tax rate collected on each gallon of wine, daily with the treasurer of the state, and not later than the fifth day of the following month shall cover them into the Enforcement and Administration Fund.

SECTION 97. IC 8-1-19.5-6, AS AMENDED BY P.L.94-2010, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 6. As used in this chapter, "human services" means services provided by government or nonprofit organizations to ensure the health and well-being of Indiana citizens. The term includes services designed to **do any of the following**:

- (1) Provide relief or assistance after a natural or nonnatural disaster. ~~and~~
- (2) Assist parents with stress issues.
- (3) Assist persons in efforts to reduce instances of domestic violence.**
- (4) Assist persons in efforts to reduce the rate of infant mortality.**
- (5) Direct persons to services providing assistance to veterans, senior citizens, and vulnerable**

